

**UNITED STATES DISTRICT
COURT DISTRICT OF ARIZONA**

IN RE: BARD IVC FILTER

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MDL NO. 2641

JUDGE DAVID G. CAMPBELL

This Document Relates to:

EASTER v. C.R. BARD, INC., AND BARD PERIPHERAL VASCULA INC.
Civil Action No. 2:19-cv-01895-DGC

MOTION TO SUBSTITUTE PARTY AND AMEND COMPLAINT

Counsel for Plaintiffs Joshua Easter and Amanda Easter respectfully move this court to substitute Amanda Easter, the surviving spouse, as the Personal Representative for the Estate of Joshua Easter, Deceased, pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure, and to file an Amended Complaint pursuant to Federal Rule of Civil Procedure 15(a)(2).

1. Plaintiff Joshua Easter case was filed on or about March 22, 2019
(*EASTER v. C.R. BARD, INC., AND BARD PERIPHERAL VASCULAR INC.*; Case No.
2:19-cv-01895-DGC).

2. All active Defendants have been served with process pursuant to Second Amended Case Management Order No. 4 (CMO 4).

- a. On or about March 22, 2019, Defendant C.R. Bard, Inc., was served by the Court's electronic filing system with the Complaint and Request for waiver of service.
- b. On or about March 22, 2019, Defendants Bard Peripheral Vascular Inc., was served by the Court's electronic filing system with the Complaint and Request for waiver of service.

3. On or about June 21, 2019, Plaintiffs' counsel was informed that Joshua Easter passed away on or about October 5, 2016.

4. Joshua Easter's action against Defendants survives his death and is not extinguished.

5. Plaintiffs' counsel filed the Notice and Suggestion of Death on or about June 21, 2019 [Doc. 18638].

6. On or about October 5, 2016, City of Pine Hill, North Carolina named his surviving spouse, Amanda Easter as the informant of decedent and the Personal Representative for the Estate of Joshua Easter.

7. Plaintiff thus moves to substitute Amanda Easter, as Personal Representative for the Estate of Joshua Easter, Deceased, as Plaintiff in the present action.

8. Additionally, Counsel seeks to amend the Complaint, as well as the caption of the Complaint to correct the proper Plaintiffs (specifically Amanda Easter, as Personal Representative for the Estate of Joshua Easter, Deceased) and to update and include information, allegations and actions within the Complaint to reflect that Plaintiff Joshua Easter is now deceased.

9. Pursuant to Federal Rules of Civil Procedure 15(a)(2) a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

WHEREFORE, Counsel for Plaintiffs, Joshua Easter and Amanda Easter, respectfully request the Court grant Plaintiffs' Motion to Substitute Amanda Easter as Personal Representative for the Estate of Joshua Easter, Deceased, and to grant leave to file the Amended Complaint and directing the Clerk of the Court to enter the Amended Complaint, attached hereto, into the record of this matter.

Dated: June 21, 2019

Respectfully submitted,

By: /s/ Monte Bond

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ATTORNEYS FOR PLAINTIFF(S)

CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2019 I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

Dated: June 21, 2019

Respectfully submitted,

/s/ Monte Bond

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